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Pacific Bell and Communications Workers of America, District 9, AFL-CIO. Case 20-CA-26193

February 17, 1995

DECISION AND ORDER

BY MEMBERS STEPHENS, BROWNING, AND
TRUESDALE

Upon a charge filed by the Union on July 8, 1994, the General Counsel of the National Labor Relations Board issued a complaint on August 31, 1994, against Pacific Bell, the Respondent, alleging that it has violated Section 8(a)(1) and (5) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent failed to file an answer.

On January 17, 1995, the General Counsel filed a Motion for Summary Judgment with the Board. On January 20, 1995, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated December 13, 1994, notified the Respondent that unless an answer were received by December 20, 1994, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a corporation with an office and place of business in Sacramento, California, has been engaged in the furnishing of telephone services. During

the calendar year ending December 31, 1993, the Respondent, in conducting its business operations, derived gross revenues in excess of \$100,000, and purchased and received at its Sacramento, California facility goods and materials valued in excess of \$5000 which originated outside the State of California. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

The following employees of the Respondent constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees covered by the terms of the collective-bargaining agreement currently in effect between the Union and the Respondent, effective by its terms from August 9, 1992, through August 5, 1995; excluding guards, and supervisors as defined in the Act.

Since about August 9, 1992, and at all material times, the Union has been the designated exclusive collective-bargaining representative of the unit and since then the Union has been recognized as the representative by the Respondent. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective from August 9, 1992, to August 5, 1995.

At all times since at least August 9, 1992, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

Since about July 1, 1994, the Union, by facsimiles and phone calls, has requested that the Respondent furnish the Union with all documents contained in the company medical file of employee Rosemary Sall. This information requested by the Union is necessary for and relevant to the Union's performance of its duties as the exclusive collective-bargaining representative of the unit. Since about July 1, 1994, the Respondent has failed and refused to furnish the Union with the requested information.

CONCLUSION OF LAW

By the acts and conduct described above, the Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has failed to provide the Union requested information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees, we shall order the Respondent to furnish the Union the information requested.

ORDER

The National Labor Relations Board orders that the Respondent, Pacific Bell, Sacramento, California, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing to provide Communications Workers of America, District 9, AFL-CIO requested information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees. The following employees are included in the unit:

All employees covered by the terms of the collective-bargaining agreement currently in effect between the Union and the Respondent, effective by its terms from August 9, 1992, through August 5, 1995; excluding guards, and supervisors as defined in the Act.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Provide the Union with all documents contained in the company medical file of employee Rosemary Sall, which information is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

(b) Post at its facility in Sacramento, California, copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 20, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C. February 17, 1995

James M. Stephens, Member

Margaret A. Browning, Member

John C. Truesdale, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT fail to provide Communications Workers of America, District 9, AFL-CIO requested information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees. The following employees are included in the unit:

All employees covered by the terms of the collective-bargaining agreement currently in effect between the Union and us, effective by its terms from August 9, 1992, through August 5, 1995; excluding guards, and supervisors as defined in the Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL provide the Union with all documents contained in the company medical file of employee Rosemary Sall, which information is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

PACIFIC BELL